IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI,THE ACTING CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO : 14472 of 2005

Between:

M/s. IBP Co. Ltd., rep. by its Sr. Manager (F&A), Mr. M. Ravi Bala-Subramanyam, R/o. 9-1-83 &84, Sarojini Devi Road, Secunderabad.

..... PETITIONER

AND

The Assistant Commissioner (CT) LTU, Begumpet Division, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a Writ of Mandamus or any other appropriate writ or order or direction declaring that the endorsement dt. 2.3.2005 made by the Respondent on the application of the Petitioner dt. 9.12.2004 refusing to rectify the assessment in view of completion of assessment as illegal, arbitrary and failure to exercise the jurisdiction vested in him and consequently direct the respondent to rectify the assessment order dt. 29.7.2004 for the year 2002-03 by deleting the excess levy of 2% as turnover tax under Section 5-A (1-A) of the Act on the sales of LPG,SKO and coolant and pass such other order or orders as the Hon'ble Court may deem fit and proper.

Counsel for the Petitioner:MR.P.SRINIVASA REDDY

Counsel for the Respondent : GP FOR COMMERCIAL TAX

The Court made the following :

ORAL ORDER: (per the Hon'ble Sri Bilal Nazki, ACJ)

The order dated 29.7.2004 is an assessment order against which an appeal lies. Thereafter, petitioner filed an application for refund of excess amount on the ground that certain items in the assessment were not liable to tax at all. But the Assistant Commissioner passed an order on 2.3.2005 that since the assessment had been finalized, therefore, it was open for the assessee to prefer an appeal against the said assessment order.

In this view of the matter, after hearing the learned counsel for the parties, we dispose of the writ petition granting two weeks time to the petitioner to file an appeal against the assessment.

The writ petition is accordingly disposed of. No costs.

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BILAL NAZKI, ACJ

DATE: 6th July, 2005

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G.CHANDRAIAH ,J

Note: Furnish c.c. in two days

B/o

pnb

To

1. The Assistant Commissioner (CT)(LTU), Begumpet Division, Hyderabad.

2. Two C.Cs. to the Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad. (OUT)

3. Two C.D. copies